

**SHOREVIEW PLANNING COMMISSION
MEETING MINUTES
December 16, 2014**

CALL TO ORDER

Chair Solomonson called the December 16, 2014 Shoreview Planning Commission meeting to order at 7:00 p.m.

ROLL CALL

The following Commissioners were present: Chair Solomonson; Commissioners, Ferrington, McCool, Peterson, Proud, Schumer, and Thompson.

APPROVAL OF AGENDA

MOTION: by Commissioner Schumer, seconded by Commissioner Ferrington to approve the December 16, 2014 Planning Commission meeting agenda as submitted.

VOTE: Ayes - 7 Nays - 0

APPROVAL OF MINUTES

Commissioner Schumer requested the correction of the spelling of his name under *Approval of Agenda*.

MOTION: by Commissioner Schumer, seconded by Commissioner McCool to approve the November 18, 2014 Planning Commission meeting minutes, as amended.

VOTE: Ayes - 6 Nays - 0 Abstain - 1 (Peterson)

NEW BUSINESS

VARIANCE / RESIDENTIAL DESIGN REVIEW

FILE NO.: 2556-14-46
APPLICANT: JAMES & LINDA BUDNICKI
LOCATION: 5280 OXFORD STREET NORTH

Presentation by Senior Planner Rob Warwick

The proposal is to tear down the existing home and rebuild a new one. The property is a substandard riparian lot on the west side of Turtle Lake. The property to the south is a vacant lot used by a Homeowners Association for lake access. Three variances are requested: 1) to

increase the front setback; 2) to increase the area of a detached structure; and 3) to increase the total floor area of all accessory structures--attached and detached.

The area of the property is approximately 27,000 square feet with a lot width of 85 feet, which is less than the 100-foot width required for a standard riparian lot. The project was first proposed with a large pervious surfaced driveway. Upon receiving comments from the DNR on impervious surface coverage, the plan has been revised to be in compliance with the 30% maximum permitted. Staff would suggest a further revision to add an approach to the detached garage with reductions elsewhere. The applicants have agreed. The proposed impervious surface is 29.6%.

The proposed new house would be one story with a walk-out on the lakeside of the lower level. An attached garage of 950 square feet is proposed as well as a detached garage of 600 square feet. The maximum area permitted for the detached garage is 250 square feet. The front setback for the house is 165.7 feet; the maximum allowed is 97.3 feet. The total floor area of all accessory structures would be 1550 square feet; the Code allows 1200 square feet or 90% of the dwelling foundation. This is to keep the dwelling the dominant feature of the property. The total house area is 2178 square feet. The total accessory structure area is 71.2% of the dwelling foundation.

The setbacks from the Ordinary High Water (OHW) of Turtle Lake and the front lot line are calculated on the basis of setbacks of the adjacent properties. The property to the south is undeveloped and used for a beach access. The setback minimums for the front lot line and OHW are used for this lot in the calculation.

There is a sanitary sewer line that runs diagonally across the subject property.

Detached accessory structures are permitted to be located in front yards with a minimum 20-foot setback. The setback proposed is 42 feet with a 5-foot setback from the south lot line. Exterior materials will be the same as the dwelling. The topography has been used to submerge the garage by approximately 3 feet, which lessens its visual impact from the street. The large attached garage space is partly due to ramps and an elevator for use by a handicapped family member. The space for those accommodations cannot be used for storage.

Staff finds that the project complies with all standards of lot coverage, building height and foundation area. The exceptions are the front setback and accessory structure standards. Practical difficulty is present with the location of the sanitary sewer and the vacant lot to the south. The property is a large wooded lot that requires extensive maintenance. The property owners also participate in maintaining the beach access lot to the south. The garages provide storage for the necessary maintenance equipment.

Notices were sent to appropriate agencies and property owners within 150 feet of the subject property. As was noted, the DNR commented on impervious surface and the plan was revised. A total of five comments were received from neighbors. All express support for the project.

Staff agrees that practical difficulty exists for the front setback variance request, as the vacant lot to the south impacts the front setback calculation. Staff also agrees that the detached garage will not alter the character of the neighborhood, since there are others on nearby lake lots. A resolution approving the setback variance has been prepared.

The circumstances for a large detached garage are less evident. The attached garage and smaller 250 square foot detached structure may be sufficient for storage needs of yard equipment. Staff believes that unique circumstances do not exist for the variances needed for the detached garage. If the Commission is also unable to make findings for the garage, staff recommends tabling all requests to give the applicants time to consider changes. If findings of unique circumstances are made, the Resolution 14-125 should be revised to reflect those findings.

Commissioner Ferrington asked the approximate amount of space used by the ramp in the garage. Mr. Warwick estimated 225 to 250 square feet for the ramp, the landing outside the elevator and the stairs. Commissioner Ferrington stated that she is trying to determine the square footage being used for multi-generational living.

Commissioner McCool asked if there has been any discussion moving the house further west for better alignment with neighboring homes. Mr. Warwick noted that on the survey it shows that the house to the north is 88 feet from the OHW. The applicant's proposed home is 86 feet from the OHW. Optically, it will jut out from 5256 and 5264 on the lake side. Commissioner McCool asked if there is a restriction on the vacant lot for lake access. Mr. Warwick answered, no. The lot is owned by the Homeowners Association.

Chair Solomonson asked what codes regulate handicap access and if that affects impervious coverage. Mr. Warwick stated that generally ramps for front entry access are like decks, constructed over soil. They are not counted as pervious surface.

Commissioner Proud noted that the ramp and elevator serve to provide inside access and protect the handicapped from inclement weather.

Mr. James Bundicki and Linda Bundicki appeared before the Commission. **Mr. Bundicki** thanked staff and the Planning Commission for reviewing their plan. The house is designed in order to have flexibility that would accommodate handicapped accessibility. While not living in the home, the Bundickis are the caregivers for Mr. Bundicki's mother. The ramp is actually a walking path. The pathway is approximately 80 to 100 square feet. The area of the staircase is approximately another 120 square feet. Because of the topography he estimated a dozen stairs to reach the house. If the garage were on the same level as the home, only one or two steps would be needed.

Ms. Bundicki stated when transporting the elderly, it is important that there is enough room for the car door to open all the way for an oxygen tank, walker and eventually a wheelchair. The car door does open across the pathway.

Mr. Bundicki stated that when they talked to the neighbors about what they would want to see in this development, the major thing is to be able to see the lake. They purposefully chose a low

pitch roof, embed the garage into the topography with landscaping to screen it. The garage does not face the street. The driveway was located so that headlights do not shine in windows across the street but between homes. The lot is approximately the size of half a football field. Big equipment is needed for maintenance--a tractor, bagger, snowblower, weights, chains. The topography is low with about 5 to 6 feet dropping from the street to the house and another 3 to 4 feet to the lake.

Mr. Bundicki noted that the Minnesota Pollution Control Agency has stated that 87 of 120 lakes studied did not meet water quality standards because of excess nutrients. One of the biggest culprits is leaves. They want to be sure to have the equipment to properly maintain the property and the lake. **Mrs. Bundicki** stated that it was a shock to them to find out how much storage space is needed for the equipment they have and need.

Commissioner Ferrington asked the nature of the maintenance work for the vacant lot. **Mrs. Bundicki** explained that there are kids who bid for summer lawn mowing. However, they do not have the leaf-removing equipment for spring and fall or tree trimming equipment. Commissioner Ferrington stated she does support the project and the unique circumstance is the handicapped accessibility.

Chair Solomonson stated that handicapped accessibility is a unique circumstance. The Code does not have a tiered range of sizes for accessory structures. This particular property that is long and thin can fit a larger garage. He would support the proposal.

Commissioner Peterson stated that although he is troubled by the size of the detached garage, he does like the plan. He likes the way the home is tucked away and keeps views of the lake. He identified the following unique circumstances: 1) handicapped accessibility; 2) support of the homeowners association with the vacant lot immediately next door; 3) the large trees that would require a lot of leaf maintenance. With these unique factors, he would support the variance.

Commissioner Thompson stated that she likes the plan. Her concern is finding a unique circumstance of handicapped accessibility, that putting in an elevator is unique enough so as not to set a precedent. She does not believe others will include an elevator to get approval for a larger space.

Commissioner Schumer stated that he supports the project and believes it is forward thinking. The handicapped accessibility is a unique circumstance.

Commissioner Ferrington stated that the allowance under code compliance is 250 square feet plus 250 square feet to provide the handicapped access features is 500 square feet. That is close enough in regard to the circumstances presented.

Commissioner McCool stated that the application is generally reasonable and he likes the plan, but he believes the detached garage is too large. He accepts the elevator is a unique circumstance but does not justify 600 square feet. The elevator is not 225 square feet but 100 or 125 square feet. The stairs adds another 100 square feet and has nothing to do with the elevator.

Commissioner Proud suggested the possibility of tabling action in order to give the applicant time to present a more detailed plan of how the space is to be used.

Commissioner McCool stated that the planned use of the space is not a problem. There will be a 950 square foot 3-car garage. It is not a situation where there is a one-car garage. His concern is not how the space is used but the size of the detached garage requested.

MOTION: by Commissioner Proud, seconded by Commissioner Schumer to adopt Resolution No. 14-125, approving the variance requests to increase the front setback; to increase the maximum area of a detached accessory structure from 250 sq. ft. to 600 sq. ft., and to increase the total floor area of all accessory structures from 1200 sq. ft. to 1550 sq. ft., all submitted by James and Linda Budnicki for the property located at 5280 Oxford Street.

This approval is subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The applicant shall execute a mitigation affidavit prior to issuance of a building permit for the project.
3. Impervious surface coverage shall not exceed 30% of lot area.
4. The project is subject to the permitting requirements of the Rice Creek Watershed District (RCWD). No City permits shall be issued prior to satisfaction of these requirements.
5. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.
6. This approval will expire after one year if a building permit has not been issued and construction commenced.

This approval is based on the first four findings:

1. The proposed improvements are consistent with the Housing and Land Use Chapters of the Comprehensive Plan.
2. The proposed detached single-family residence, detached accessory structure, and the total floor area of all accessory structures represent a reasonable use of the property which is located in the R-1 Detached Residential District and Shoreland Overlay District.
3. The front setback is based on the setback of the dwellings on the adjacent properties. Since the lot to the south is vacant, the setback calculation is affected and reduced. The intent of the Code is that dwellings roughly align, and the proposed location is similar to the orientation of the dwelling on nearby riparian lots. This location also avoids interference with the sanitary sewer located on the property.
4. The property can be developed with a maximum total floor area for all accessory structures of 1200 sq. ft., which does not allow for sufficient storage area for power equipment needed to maintain a large lake lot.

5. Unique circumstances exist because of the handicapped access and related all-weather access to the structure, the maintenance requirements on this property and the need for this property to support the Homeowners Association's efforts on the access lot to the south.
6. Unique circumstances that pertain to the detached accessory structure and total floor area of all accessory structures include the handicapped-accessible design used for the house, including the elevator located in the attached garage, where the garage provides access sheltered from the elements, the large and long riparian lot which necessitates maintenance equipment, the adjoining Association owned access lot which the applicants assist in maintaining, so increasing the need for equipment and equipment storage for the applicants' property.
7. Nearby riparian properties are developed with the dwellings oriented towards the lake and detached accessory structures, and so the variances should not affect the essential character of the neighborhood.

Discussion:

Commissioner Schumer offered a change to approve the first four findings as listed and then seconded the motion.

Chair Solomonson asked for clarification of the findings included in the motion. Commissioner Proud responded that there are four findings on the motion sheet that are included and four findings for denial.

Ms. Castle expressed concern about including the denial finding No. 3, which states that the property can be developed up to 1200 square feet, when the applicants have requested more. Commissioner Proud agreed that the denial finding No. 3 be deleted.

Mr. Warwick suggested that the findings be included with the Resolution in order to be sure that the factors discussed regarding accessibility and maintenance of two lots are stated.

Commissioner McCool offered an amendment to the denial finding No. 3 to state that the 1200 square feet does not allow for sufficient storage given the circumstances identified.

Commissioner Proud and Commissioner Schumer accepted this amendment as well as the comments from Mr. Warwick.

VOTE: Ayes - 6 Nays - 1 (McCool)

MISCELLANEOUS

Council Meeting Assignments

Commissioners Peterson and Thompson will respectively attend the City Council meetings on January 5th and 20th.

Planning Commission Workshop

The Planning Commission will meet in a workshop meeting immediately following this regular meeting.

ADJOURNMENT

MOTION: by Commissioner Schumer, seconded by Commissioner McCool to adjourn the meeting at 8:29 p.m.

VOTE: Ayes - 7 Nays - 0

ATTEST:

Kathleen Castle
City Planner